



4310-HC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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14X1106]

Final Supplementary Rules for Public Land in Water Canyon, Humboldt County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Final supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) Winnemucca District, Humboldt River Field Office is establishing supplementary rules relating to camping, the discharge of firearms, and the use of motor vehicles on public land within Zone 1 of the Water Canyon Recreation Area. The supplementary rules are necessary to protect natural resources and the health and safety of public land users within the Zone 1 area. These supplementary rules allow BLM law enforcement personnel to limit the number of successive days of camping and to regulate vehicle use in the Zone 1 area. These supplementary rules allow BLM law enforcement personnel to support state and local law enforcement agencies with enforcement of law in prohibiting the discharge of firearms and in restricting motor vehicles to the posted speed limit.

DATES: These rules are effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may direct inquiries to Joey Carmosino, Outdoor Recreation Planner, BLM, Humboldt River Field Office, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445.

FOR FURTHER INFORMATION CONTACT: Joey Carmosino, Winnemucca District Humboldt River Field Office, (775) 623-1771, e-mail: vcarmosi@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal hours.

SUPPLEMENTAL INFORMATION:

I. Background

II. Discussion of the Final Supplementary Rules

III. Procedural Matters

I. Background

These supplementary rules affect public lands identified as Zone 1 of the Water Canyon Recreational Area. Water Canyon is 4 miles southeast of Winnemucca, Nevada. Zone 1 is the portion of the Canyon that receives the most recreational use. Traffic and trail counters confirm annual visitation to the area is in the range of 50,000 people and 25,000 vehicles. Zone 1 is a fenced corridor of public land within Township 35 North, Range 38 East, Mount Diablo Meridian, through portions of sections 2, 11, and 12, in Humboldt County, Nevada. The Zone 1 fenced corridor is of variable width perpendicular to the centerline of Water Canyon Road with an overall width average of approximately 600 feet and running approximately 1.8 miles in length along Water Canyon Road.

The width of the Zone 1 fenced corridor (600 feet wide) is an average of the hereinafter described centerline of Water Canyon Road, its legal land description is as follows:

Beginning at approximately Latitude 40° 55' 53.7811" North and Longitude 117° 40' 39.6508" West at intersection of Water Canyon Road and the Zone 1 fence; thence, systematically traversing southeasterly along said centerline of Water Canyon Road to approximately Latitude 40° 55' 13.6513" North and Longitude 117° 38' 58.9198" West at intersection of Water Canyon Road and the Zone 1 fence and being the Point of Termination.

The area described contains 131 acres, more or less, calculated based on Zone 1 being 600 feet wide and 1.8 miles long in Humboldt County.

The referenced latitudes and longitudes in this description are 1983 National Geodetic Reference System values as digitized from United States Geologic Survey 1:24,000 7.5 minute quadrangle map Winnemucca East, Nev., Provisional Edition 1983.

The final supplementary rules are necessary to help the BLM achieve management objectives and to implement the decisions of the Water Canyon Recreation Area Management Plan and Environmental Assessment, Decision Record, and Cooperative Management Agreement approved August 15, 1997, and the Water Canyon Implementation Plan Amendment Environmental Assessment of August 2005. These supplementary rules include limitations or restrictions included within these planning and analysis documents.

The Water Canyon Cooperative Management Plan is a collaborative effort and was undertaken among the BLM, the Nevada Department of Wildlife, Humboldt County, the City of Winnemucca, and the public to elicit concerns, define issues, and develop a set of desired future conditions for the planning area. The outcome of this process was the development of a set of objectives intended to guide subsequent management actions

within Water Canyon. These objectives include: protecting surface and subsurface water quality within the watershed; providing recreational opportunities; preserving broad-leaved trees, high quality riparian areas, and grassy meadows; and providing for a diversity of wildlife habitats.

To achieve these objectives, a series of alternative proposals were evaluated which prescribed different allowable uses of the planning area and defined other management actions to reach these desired outcomes. The evaluation process led to a series of management decisions that emphasized a combination of moderate and low development actions organized around the division of the planning area into lowland (Zone 1) and upland (Zone 2) areas.

The BLM published proposed supplementary rules in the Federal Register on November 9, 2012 (77 FR 67391). The public comment period ended on January 8, 2013. No comments were received.

II. Discussion of the Final Supplementary Rules

In the preparation of the two EAs, the BLM sought public review of three alternatives in the Management Plan and two alternatives in the Implementation Plan. These EAs discuss specific management actions that restrict certain activities and define allowable uses. The final supplementary rules implement these management actions within Zone 1 of the Water Canyon Recreation Area.

20 Miles-per-hour (mph) Speed Limit: Zone 1 is a high traffic area that includes walkers, hikers and vehicles. A speed restriction is needed to protect users from accidents. The road passes by each campsite, and while maintained, it is a gravel road which makes emergency or panic stops difficult. A 20 mph speed limit allows for timely

driving through Zone 1 while supporting public safety for all users.

Motor vehicle restriction: All motor vehicles are restricted to travel only on the main access/canyon road in Zone 1. This restriction is proposed to further protect the wetland and riparian areas that are in close proximity to the main access/canyon road in Zone 1.

The final rules clarify that “motor vehicles” include motorcycles, all-terrain vehicles, and off-highway vehicles. This is a logical extension of the proposed rules to provide the public notice which vehicles are affected by these rules.

No Discharging of Firearms: Zone 1 is 1.8 miles long and narrow. The number of visitors that are in close proximity make the safe discharge of firearms impractical. The discharge of firearms is only prohibited in Zone 1 and continues to be allowed in the surrounding area. The final rules include a common definition of “firearms.” This is a logical extension of the proposed rules to clarify for visitors what is prohibited.

Three Day Camping Limitation: Limiting camping to no more than three consecutive nights in a 30-day period is needed because there are a small number of campsites available in Zone 1. By limiting the number of days a camper may use a campsite, there will be more opportunities for visitors to obtain a campsite. By limiting camping to three consecutive nights, the BLM will be able to dissuade long-term habitation or squatting in the Zone 1 campsites. There have been several instances of long-term camping in this area in the past. This rule will allow law enforcement officers to address this issue.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These supplementary rules do not constitute a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These supplementary rules will not have an annual effect of \$100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health, or safety, or state, local, or tribal governments or communities. These supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. These supplementary rules are merely rules of conduct for public use of a limited area of public lands.

National Environmental Policy Act

During the National Environmental Policy Act process, many alternatives were analyzed, including these final supplementary rules. The pertinent analysis and rationale can be found in Management Plan, inclusive of the EA, Decision Record and Cooperative Management Agreement approved August 15, 1997, and the Implementation Plan EA signed August 2005. These final supplementary rules provide for enforcement of decisions made in the Management Plan and Implementation Plan. The EAs mentioned above are available for review in the BLM administrative record at the address specified in the ADDRESSES section and online at http://www.blm.gov/nv/st/en/fo/wfo/blm_information/nepa0.html/.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended (5

U.S.C. 601–612) to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule will have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These supplementary rules merely establish rules of conduct for public use of a limited area of public lands. Therefore, the BLM has determined under the RFA that these supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These supplementary rules are not considered a major rule as defined under 5 U.S.C. 804(2). These supplementary rules merely establish rules of conduct for public use of a limited area of public lands and do not affect commercial or business activities of any kind.

Unfunded Mandates Reform Act

These supplementary rules do not impose an unfunded mandate on state, local, or tribal governments in the aggregate, or on the private sector of more than \$100 million per year; nor do they have a significant or unique effect on small governments. The supplementary rules have no effect on governmental or tribal entities and would impose no requirements on any of these entities. These supplementary rules merely establish rules of conduct for public use of a limited selection of public lands and do not affect tribal, commercial, or business activities of any kind. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

These supplementary rules do not have significant takings implications, nor are they capable of interfering with Constitutionally-protected property rights. These supplementary rules merely establish rules of conduct for public use of a limited area of public lands and do not affect anyone's property rights. Therefore, the BLM has determined that these supplementary rules will not cause a taking of private property or require preparation of a takings assessment under this Executive Order.

Executive Order 13132, Federalism

These supplementary rules will not have a substantial direct effect on the states, the relationship between the Federal government and the states, or the distribution of power and responsibilities among the various levels of government. These supplementary rules do not come into conflict with any state law or regulation. Therefore, under Executive Order 13132, the BLM has determined that these supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, these supplementary rules will not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b) (2) of the Order.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, these supplementary rules do not include policies that have tribal implications. These supplementary rules do not affect

land held for the benefit, nor impede the rights of, Indians or Alaska Natives. These supplementary rules have no associated ground disturbance and are directly associated with general public health and safety.

Information Quality Act

The Information Quality Act (Section 515 of Pub. L. 106-554) requires Federal agencies to maintain adequate quality, objectivity, utility, and integrity of the information they disseminate. In developing these supplementary rules, the BLM did not conduct or use a study, experiment, or survey or disseminate any information to the public.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

These supplementary rules do not constitute a significant energy action. These supplementary rules will not have an adverse effect on energy supplies, production, or consumption, and have no connection with energy policy.

Paperwork Reduction Act

These supplementary rules do not provide for any information collection that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Any information collection that may result from Federal criminal investigations or prosecution conducted under these supplementary rules is exempt from the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3518(c)(1).

Author

The principal author of these supplementary rules is Joey Carmosino, Outdoor Recreation Planner, BLM Winnemucca District.

For the reasons stated in the preamble and under the authorities for supplementary rules found at 43 U.S.C. 1740 and 43 CFR 8365.1-6, the BLM Nevada State Director issues supplementary rules for public lands managed by the BLM in Nevada, to read as follows:

Supplementary Rules for Zone 1 of the Water Canyon Recreation Area

1. These supplementary rules apply, except as specifically exempted, to activities within the Zone 1 of the Water Canyon Recreation Area, which is comprised of public lands administered by the BLM near Winnemucca, Nevada.
2. These supplementary rules are in effect on a year-round basis.
3. Camping in Zone I is limited to no more than 3 consecutive nights in a 30-day period.
4. The discharge of any firearm in Zone I is prohibited.
 - a) A firearm means any weapon; for example, a compressed gas or spring powered pistol or rifle, bow and arrow, cross bow, blowgun, spear gun, spear, sling shot, irritant gas device or any implement designed to or may be converted to expel a projectile by the action of an explosive.
5. All motor vehicles, including motorcycles, all-terrain vehicles, and off-highway vehicles, must not exceed the posted speed limit of 20 miles per hour on the main access/canyon road in Zone I.
6. All motor vehicles, including motorcycles, all-terrain vehicles, and off-highway vehicles, are restricted to travel only on the main access/canyon road in Zone I.

Exemptions: The following persons are exempt from these supplementary rules: any Federal, state, local or military persons acting within the scope of their duties; and members of an organized rescue or firefighting force in performance of an official duty.

Penalties: Any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571. In accordance with 43 CFR 8365.1-7, state or local officials may also impose penalties for violations of Nevada law.

Amy Lueders,
State Director, Nevada.

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